

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SAMANTHA G. CHANEY, *et al.*,

Plaintiffs,

v.

JOSEPH D. LEHMAN,

Defendant.

Case No. C04-5881FDB

ORDER GRANTING MOTION FOR
CLARIFICATION AND DIRECTING
ENTRY OF AMENDED JUDGMENT

Defendants moved for summary judgment on the Class's damage claims based on qualified immunity, and the Court granted judgment to Defendant Lehman and entered a judgment to that effect on October 24, 2005. That order was appealed and is pending at the Ninth Circuit.

Defendant Lehman moves for an order clarifying that the Court has not yet decided Plaintiffs' claims for injunctive and/or declaratory relief.

Plaintiffs object arguing (1) that because notice of appeal has been filed, this Court is without jurisdiction; (2) Defendant's motion is untimely (48 days too late); and (3) on the merits, there is nothing of substance left for this Court to decide. On the merits, Plaintiffs argue that all of Plaintiffs' causes of action are predicated on Plaintiffs' contention that they and other members of the class have a constitutionally protected liberty interest in vested early release credits, and the Court ruled unequivocally in its order that Plaintiffs' contention is wrong. Therefore, Plaintiffs argue that there is nothing of substance left for this Court to decide.

1 Defendant Lehman replies, that the Court has jurisdiction to address those matters that were
2 not part of its order that is on appeal and that it may at any time clarify its prior rulings and
3 determine whether those rulings dispose of all claims in the case. Defendant Lehman also argues that
4 the law of the case doctrine is discretionary and that this Court could reach a different conclusion on
5 the liberty interest question when deciding Plaintiffs' declaratory and injunctive relief claims that that
6 reached in deciding the Motion for Summary Judgment on Plaintiffs' damage claims. Defendant also
7 argues that by arguing law of the case doctrine, Plaintiffs necessarily concede that this Court has not
8 yet decided these claims. Defendant, therefore, suggests that if the Court agrees with Plaintiffs
9 position, that the Court so indicate in a new Order and Judgment that would allow appeal of all of
10 Plaintiffs' claims.

11 The Court's Order granting summary judgment to Defendant Lehman on the Class damage
12 claims necessarily disposed of the claims for injunctive and declaratory relief.

13 ACCORDINGLY, IT IS ORDERED:

- 14 1. Defendant Lehman's Motion for Clarification of Order and Judgment [Dkt. # 44] is
15 GRANTED: The Court's Order [Dkt. # 38] granting summary judgment to
16 Defendant Lehman on the Class damage claims necessarily disposed of the claims for
17 injunctive and declaratory relief.
- 18 2. The Clerk shall enter an Amended Judgment in favor of Defendant stating that
- 19 a. The Court Adopts the Report and Recommendation, and
- 20 b. All damage claims as well as claims for injunctive and declaratory relief are
21 dismissed with prejudice based on a finding of qualified immunity.

22 DATED this 8th day of February, 2006.

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24 FRANKLIN D. BURGESS
25 UNITED STATES DISTRICT JUDGE
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